

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IpLearn, LLC,

Plaintiff,

v.

Blackboard Inc.,

Defendant.

C.A. No.

**JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff IpLearn, LLC ("IpLearn") alleges as follows:

PARTIES

1. IpLearn is a California limited liability company with its principal place of business at 1807 Limetree Lane, Mountain View, California 94040. IpLearn is a technology development and licensing company for web and computer-based learning technologies.

2. IpLearn has been a pioneer in the field of web and computer-based learning technologies. Its innovations have been adopted extensively in the eLearning community, and its patents have been widely licensed in the industry.

3. On information and belief, Defendant Blackboard Inc. ("Blackboard") is a Delaware corporation with its principal place of business at 650 Massachusetts Avenue NW, Washington, District of Columbia 20001. Blackboard has appointed Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, as its agent for service of process.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391 (b)-(c) and 1400(b) because Blackboard is subject to personal jurisdiction in this district, has committed acts of

patent infringement in this district, or has a regular and established place of business in this district.

COUNT I

(Infringement of U.S. Patent No. RE38,432)

6. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

7. IpLearn is the owner by assignment of United States Patent No. RE38,432 ("the '432 patent"), entitled "Computer-Aided Group-Learning Methods and Systems." The '432 patent issued on February 24, 2004. A true and correct copy of the '432 patent is attached hereto as Exhibit A.

8. Defendant Blackboard has infringed and is infringing one or more claims of the '432 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided group learning services and products that provide an interactive environment to help users learn by, for example, allowing users to communicate in a dialogue session to work on a subject, including but not limited to its Blackboard Collaborate.

9. As a result of Blackboard's infringement of the '432 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '432 patent.

COUNT II

(Infringement of U.S. Patent No. RE39,942)

10. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

11. IpLearn is the owner by assignment of United States Patent No. RE39,942 ("the '942 patent"), entitled "Computer-Aided Group-Learning Methods and Systems." The '942 patent issued on December 18, 2007. A true and correct copy of the '942 patent is attached hereto as Exhibit B.

12. Defendant Blackboard has infringed and is infringing one or more claims of the '942 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-implemented group learning services and products that provide an interactive environment to help users learn by, for example, allowing users to communicate in a dialogue session to work on a subject, including but not limited to its Blackboard Collaborate.

13. As a result of Blackboard's infringement of the '942 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '942 patent.

### COUNT III

#### (Infringement of U.S. Patent No. 6,398,556)

14. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

15. IpLearn is the owner by assignment of United States Patent No. 6,398,556 ("the '556 patent"), entitled "Inexpensive Computer-Aided Learning Methods and Apparatus for Learners." The '556 patent issued on June 4, 2002. A true and correct copy of the '556 patent is attached hereto as Exhibit C. On June 12, 2007, the U.S. Patent and Trademark Office issued a reexamination certificate for the '556 patent.

16. Defendant Blackboard has infringed and is infringing one or more claims of the '556 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products that, for example, permit learning users to access materials for learning and institute users to access materials regarding learning users, including but not limited to its Blackboard Learn.

17. As a result of Blackboard's infringement of the '556 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '556 patent.

COUNT IV

(Infringement of U.S. Patent No. 6,685,478)

18. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

19. IpLearn is the owner by assignment of United States Patent No. 6,685,478 ("the '478 patent"), entitled "Inexpensive Computer-Aided Learning Methods and Apparatus for Learners." The '478 patent issued on February 3, 2004. A true and correct copy of the '478 patent is attached hereto as Exhibit D.

20. Defendant Blackboard has infringed and is infringing one or more claims of the '432 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products that, for example, permit learning users to access materials for learning and institute users to access materials regarding learning users, including but not limited to its Blackboard Learn.

21. As a result of Blackboard's infringement of the '478 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '478 patent.

COUNT V

(Infringement of U.S. Patent No. 7,201,580)

22. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

23. IpLearn is the owner by assignment of United States Patent No. 7,201,580 ("the '580 patent"), entitled "Inexpensive Computer-Aided Learning Methods and Apparatus for Learners." The '580 patent issued on April 10, 2007. A true and correct copy of the '580 patent is attached hereto as Exhibit E.

24. Defendant Blackboard has infringed and is infringing one or more claims of the '580 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to

sell, or importing computer-aided learning services and products that, for example, track users' learning activities and permit an enterprise to access a report regarding the users' learning activities, including but not limited to its Blackboard Learn.

25. As a result of Blackboard's infringement of the '580 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '580 patent.

COUNT VI

(Infringement of U.S. Patent No. 5,779,486)

26. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

27. IpLearn is the owner by assignment of United States Patent No. 5,779,486 ("the '486 patent"), entitled "Methods and Apparatus to Assess and Enhance a Student's Understanding in a Subject." The '486 patent issued on July 14, 1998. A true and correct copy of the '486 patent is attached hereto as Exhibit F.

28. Defendant Blackboard has infringed and is infringing one or more claims of the '486 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for assessing a student's understanding in a subject by, for example, accessing the student's latest test results on an area within the subject and relationship rules to determine a student's understanding in a subject, including but not limited to its Blackboard Learn.

29. As a result of Blackboard's infringement of the '486 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '486 patent.

COUNT VII

(Infringement of U.S. Patent No. 5,934,909)

30. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

31. IpLearn is the owner by assignment of United States Patent No. 5,934,909 ("the '909 patent"), entitled "Methods and Apparatus to Assess and Enhance a Student's Understanding in a Subject." The '909 patent issued on August 10, 1999. A true and correct copy of the '909 patent is attached hereto as Exhibit G.

32. Defendant Blackboard has infringed and is infringing one or more claims of the '909 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for assessing a student's understanding in a subject by, for example, accessing the student's test results on an area within the subject and relationship rules to determine a student's understanding in a subject, including but not limited to its Blackboard Learn.

33. As a result of Blackboard's infringement of the '909 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '909 patent.

COUNT VIII

(Infringement of U.S. Patent No. 6,118,973)

34. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

35. IpLearn is the owner by assignment of United States Patent No. 6,118,973 ("the '973 patent"), entitled "Methods and Apparatus to Assess and Enhance a Student's Understanding in a Subject." The '973 patent issued on September 12, 2000. A true and correct copy of the '973 patent is attached hereto as Exhibit H.

36. Defendant Blackboard has infringed and is infringing one or more claims of the '973 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for assessing a student's understanding in a subject by, for example, accessing the student's latest and prior-to-the-latest test results on an area within the subject to generate a recommendation, which provides an assessment on the student's understanding in the subject, including but not limited to its Blackboard Learn.

37. As a result of Blackboard's infringement of the '973 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '973 patent.

#### COUNT IX

##### (Infringement of U.S. Patent No. 6,688,888)

38. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

39. IpLearn is the owner by assignment of United States Patent No. 6,688,888 ("the '888 patent"), entitled "Computer-Aided Learning System and Method." The '888 patent issued on February 10, 2004. A true and correct copy of the '888 patent is attached hereto as Exhibit I.

40. Defendant Blackboard has infringed and is infringing one or more claims of the '888 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for learning a subject by, for example, analyzing the learner's test results using one or more rules to determine at least one weakness in the subject and providing guidance to the learner to target the weakness, including but not limited to its Blackboard Learn.

41. As a result of Blackboard's infringement of the '888 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and

will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '888 patent.

COUNT X

(Infringement of U.S. Patent No. 5,863,208)

42. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

43. IpLearn is the owner by assignment of United States Patent No. 5,863,208 ("the '208 patent"), entitled "Learning System and Method Based on Review." The '208 patent issued on January 26, 1999. A true and correct copy of the '208 patent is attached hereto as Exhibit J.

44. Defendant Blackboard has infringed and is infringing one or more claims of the '208 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for reinforcing a student's learning of a subject by, for example, generating summarized-learning materials relating to matters for which the student has achieved a preset level of understanding, including but not limited to its Blackboard Learn.

45. As a result of Blackboard's infringement of the '208 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '208 patent.

COUNT XI

(Infringement of U.S. Patent No. 6,212,358)

46. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

47. IpLearn is the owner by assignment of United States Patent No. 6,212,358 ("the '358 patent"), entitled "Learning System and Method Based on Review." The '358 patent issued on April 3, 2001. A true and correct copy of the '358 patent is attached hereto as Exhibit K.



48. Defendant Blackboard has infringed and is infringing one or more claims of the '358 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for reinforcing a student's learning of a subject by, for example, generating summarized-learning materials relating to matters for which the student has achieved a preset level of understanding, including but not limited to its Blackboard Learn.

49. As a result of Blackboard's infringement of the '358 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless Blackboard, and others acting on its behalf, are enjoined by this Court from infringing the '358 patent.

PRAYER FOR RELIEF

IpLearn prays for the following relief:

1. A judgment that Blackboard has infringed (either literally or under the doctrine of equivalents) one or more claims of the patents-in-suit;
2. A permanent injunction enjoining Blackboard and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with it, from infringing patents-in-suit;
3. An award of damages resulting from Blackboard's acts of infringement in accordance with 35 U.S.C. § 284;
4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to IpLearn its reasonable attorneys' fees against Blackboard;
5. A judgment and order requiring Blackboard to provide an accounting and to pay supplemental damages to IpLearn, including without limitation, pre-judgment and post-judgment interest; and
6. Any and all other relief to which IpLearn may show itself to be entitled.

DEMAND FOR JURY TRIAL

IpLearn demands a trial by jury on all issues so triable.

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